



Kansas Department of Health and Environment  
Economic Impact Statement  
Changes to the Children's Health Insurance Program Regulations  
October 22, 2013

Pursuant to the requirements of K.S.A. 2012 Supp. 65-1,254 and 75-7403, the Kansas Department of Health and Environment submits the following economic impact statement concerning new, amended, and revoked regulations regarding the KanCare-CHIP program, formerly the Healthwave program. Many of the proposed regulations, along with the identified revocations, are being promulgated for the purposes of transitioning all medical assistance regulations from the Department of Children and Families, formerly the Department of Social and Rehabilitation Services as still identified in administrative regulations, to the Department of Health and Environment which is now responsible for the administration of the KanCare-CHIP program. In addition, further changes have been promulgated within these regulations in order to implement requirements of the Patient Protection and Affordable Care Act as necessary to receive federal financial participation in the program. These regulations also incorporate established policy not previously included in K.A.R.'s such as changes required by the Deficit Reduction Act of 2005 (Public Law 109-171) as well as policy updates associated with administration of the KanCare-CHIP program.

**1. Regulations to be implemented.**

- K.A.R. 129-14-2. Definitions.
- K.A.R. 129-14-3. Providers.
- K.A.R. 129-14-20. Application process.
- K.A.R. 129-14-21. Reenrollment process.
- K.A.R. 129-14-23. Responsibilities of applicants and recipients.
- K.A.R. 129-14-25. Act in own behalf.
- K.A.R. 129-14-26. Residence.
- K.A.R. 129-14-27. Citizenship and alienage.
- K.A.R. 129-14-28. Cooperation.
- K.A.R. 129-14-30. Public institution.
- K.A.R. 129-14-31. Insurance coverage.
- K.A.R. 129-14-32. Premium payment requirement.
- K.A.R. 129-14-33. Assistance plan.
- K.A.R. 129-14-34. Financial eligibility.
- K.A.R. 129-14-35. Treatment of income.
- K.A.R. 129-14-36. Applicable income.
- K.A.R. 129-14-37. Overpayments.
- K.A.R. 129-14-40. Discontinuance of assistance.
- K.A.R. 129-14-50. Scope of services.
- K.A.R. 129-14-51. Presumptive eligibility.
- K.A.R. 129-14-52. Presumptive eligibility to be determined by qualified entities.

## **2. Regulations to be revoked.**

- K.A.R. 30-14-1. Establishment of healthwave.
- K.A.R. 30-14-2. HealthWave eligibility definitions.
- K.A.R. 30-14-3. Providers.
- K.A.R. 30-14-20. Application process.
- K.A.R. 30-14-21. Reenrollment process.
- K.A.R. 30-14-23. Responsibilities of applicants and recipients.
- K.A.R. 30-14-24. Agency responsibility to applicants and recipients.
- K.A.R. 30-14-25. General eligibility requirements.
- K.A.R. 30-14-26. Insurance coverage.
- K.A.R. 30-14-28. Premium payment requirement.
- K.A.R. 30-14-29. General rules for consideration of income.
- K.A.R. 30-14-30. Applicable income.
- K.A.R. 30-14-31. Payment amounts.
- K.A.R. 30-14-50. Scope of services.
- K.A.R. 129-14-22. Rights of applicants and recipients.

## **3. Brief description of each regulation and what is intended to be accomplished by adoption.**

### **K.A.R. 129-14-2. Definitions.**

This new regulation adopts definitions that were previously contained in K.A.R. 30-14-2 and includes additional definition of terms used throughout the regulations for the KanCare-CHIP program such as "capitated managed care," "modified adjusted gross income," and "tax dependent."

### **K.A.R. 129-14-3. Providers.**

This new regulation adopts current policy that was previously contained in K.A.R. 30-14-3. It requires managed care contractors to be selected by the Secretary and demonstrate the ability to meet contract requirements.

### **K.A.R. 129-14-20. Application process.**

This new regulation adopts current policy that was previously contained in K.A.R. 30-14-20 and includes requirements for applying to the KanCare-CHIP program by use of a department-approved form and through the state application website. It has also been modified to recognize electronic and telephonic signatures.

### **K.A.R. 129-14-21. Reenrollment process.**

This new regulation adopts and modifies current policy that was previously contained in K.A.R. 30-14-21 and includes requirements for the recipient regarding reenrollment in the KanCare-CHIP program on an annual or an as-needed basis. The recipient shall either review and respond to information provided by the department or complete and return information regarding the recipient's current situation.

### **K.A.R. 129-14-23. Responsibilities of applicants and recipients.**

This regulation has been amended to make only technical clarifications to current policy.

K.A.R. 129-14-25. Act in own behalf.

The new regulation incorporates current policy previously reflected in K.A.R. 30-14-25 regarding the requirement that each applicant and recipient have the legal capacity to apply for and receive assistance in one's own behalf. This includes emancipated minors but those who are unemancipated must have another responsible party to act in their behalf except as noted in this regulation. Also included are new definitions for "medical facilitator" and "medical representative," both of which can be authorized to act in a person's behalf in certain circumstances.

K.A.R. 129-14-26. Residence.

This new regulation incorporates current policy previously reflected in K.A.R. 30-14-25 regarding the requirement that each applicant or recipient be a resident of the State of Kansas for eligibility purposes. Rules regarding the establishment of eligibility for both non-institutionalized and institutionalized individuals are included and how the capability of the individual to state intent can affect residency.

K.A.R. 129-14-27. Citizenship and alienage.

This currently existing regulation has been completely revised to now incorporate existing policy previously reflected in K.A.R. 30-14-25 regarding the requirement that each applicant or recipient be a citizen or legally recognized non-citizen of the United States for eligibility purposes. This includes eligibility for such non-citizens as refugees, asylees, and lawful permanent residents. Policies regarding non-citizens are also affected by whether the individual entered the United States before or after August 22, 1996, in accordance with federal law. New policy is being implemented to match the Social Security data base for citizenship information before requesting hard copy documents. Otherwise, policies regarding acceptable documentation of citizenship or non-citizen status remain unchanged.

K.A.R. 129-14-28. Cooperation.

This new regulation incorporates current policy previously reflected in K.A.R. 30-14-25 regarding the applicant's and recipient's cooperation in meeting certain eligibility requirements. Included are the requirements to cooperate by supplying all information necessary to determine eligibility and providing a social security number.

K.A.R. 129-14-30. Public institution.

This new regulation incorporates current policy previously reflected in K.A.R. 30-14-25 regarding the effect of residing in a public institution on eligibility for KanCare-CHIP. Public institution is defined as an institution that is under government control such as a state psychiatric institution or a correctional facility. Persons residing in such institutions are not eligible for KanCare-CHIP except as otherwise noted in this regulation.

K.A.R. 129-14-31. Insurance coverage.

This new regulation adopts current policy previously reflected in K.A.R. 30-14-26 regarding health insurance coverage and eligibility for KanCare-CHIP. An applicant or recipient must not have current health insurance coverage, as defined, in order to qualify for KanCare-CHIP, including available coverage under the Kansas state employee health plan. This regulation also incorporates a change in the waiting period of coverage for persons who drop health insurance without good cause to three months.

K.A.R. 129-14-32. Premium payment requirement.

This new regulation adopts and amends current policy previously reflected in K.A.R. 30-14-28 regarding the requirement for paying a monthly premium for KanCare-CHIP coverage. Families

whose income now exceeds 166% of the federal poverty level shall be required to pay a premium. Families who fail to pay the premium for two consecutive months shall be rendered ineligible for a period not to exceed three months.

K.A.R. 129-14-33. Assistance plan.

This new regulation adopts a change in policy regarding the composition of the assistance plan for the family. The assistance plan shall now be determined based on who is included in a person's tax household. For persons who are not claimed as a tax dependent by any other person and who are expected to file a tax return, the household shall include the person and his or her tax dependents, except as otherwise indicated in this regulation. For persons claimed as a tax dependent by another taxpayer, the household shall include the taxpayer and the taxpayer's dependents, except as otherwise indicated in this regulation. Finally, for persons who are not claimed as a tax dependent and do not expect to file a tax return, the household shall include the person's spouse, children, and parents and siblings, if the person is under 21. For married couples, each spouse shall be included in the household of the other.

K.A.R. 129-14-34. Financial eligibility.

This new regulation adopts changes in policy regarding how financial eligibility is determined for a family. Such eligibility shall be based on the income of the tax household which includes the sum of the modified adjusted gross income (or MAGI) of each household member minus an amount equivalent to five percentage points of the federal poverty level for the applicable family size. The methods used to determine MAGI shall follow the rules specified in the Internal Revenue Code, with certain exclusions. Income exclusions include lump sum income and scholarships or other grants used for educational purposes. Although eligibility is based on household income, certain persons are excluded from the computation including a person who is not required to file a tax return and lives in the household of that person's parents. No other income deductions are allowed in the computation. Income is determined based on current income and there continues to be no resource test for KanCare-CHIP eligibility. The monthly income limit shall now be established by the Secretary and converted to MAGI-equivalent numbers in accordance with 42 C.F.R. 457.300 et seq. Finally, current policy regarding continuous eligibility for children is also incorporated in this regulation.

K.A.R. 129-14-35. Treatment of income.

This new regulation adopts and amends current policy previously included in K.A.R. 30-14-29 concerning treatment of income rules in the KanCare-CHIP program. A prospective monthly income amount is to be obtained based on a projection of income to be received. In cases of changes to income, an estimate of those changes is to be used to determine a new prospective monthly amount. Annual tax information is still to be used in determining a prospective monthly amount for self-employment purposes, but the option of a standard 25% deduction for income producing expenses is eliminated.

K.A.R. 129-14-36. Applicable income.

This new regulation incorporates current policy previously reflected in K.A.R. 30-14-30 regarding the determination of applicable income and has been further amended to reflect use of the modified adjusted gross income methodologies. Applicable income shall now be based on these methodologies and an amount equivalent to five percentage points of the federal poverty level for the applicable family size is to be deducted from the total household income when determining eligibility for the highest income standard for the individual.

**K.A.R. 129-14-37. Overpayments.**

This new regulation incorporates current policy regarding the determination and repayment of overpayments whether caused by the individual or department. Overpayments are to be paid back either voluntarily or through administrative actions.

**K.A.R. 129-14-40. Discontinuance of assistance.**

This new regulation incorporates current policy regarding the discontinuance of a recipient's participation in the KanCare-CHIP program when the recipient no longer meets one or more of the eligibility requirements.

**K.A.R. 129-14-50. Scope of services.**

This new regulation incorporates current policy previously reflected in K.A.R. 30-14-50 regarding services which are provided to KanCare-CHIP eligible children. Such services shall be the services provided through the Kansas Medicaid program.

**K.A.R. 129-14-51. Presumptive eligibility.**

This current regulation has been amended to remove reference to the Healthwave program and to modify the eligibility criteria for qualifying children to reflect the regulatory changes made in this submission. Other technical administrative changes have also been made.

**K.A.R. 129-14-52. Presumptive eligibility to be determined by qualified entities.**

This current regulation has been amended to remove reference to the Healthwave program and to modify the description of a qualified entity to adopt the federal requirements at 42 C.F.R. 435.1100.

Other technical administrative changes have also been made.

**4. Are these regulations mandated by federal law?**

Yes, except for administrative changes made to these regulations, all newly implemented policies in these regulations are mandatory under federal law.

**5. Do the proposed regulations exceed the requirements of applicable Federal law?**

Newly implemented policies do not exceed the requirements of applicable Federal law.

**6. Description of costs:**

**(a) Costs to the agency:**

For newly implemented policies, costs for both medical services and administration will be incurred by the agency.

The following service costs are expected with new policy being implemented with these regulations.

129-14-20: Expands acceptable application modes to include web-based applications from the Federally Facilitated Exchange and telephonic signatures. Total estimated cost for FY15 is \$500,000, all funds.

129-14-32: Changes the waiting period for non-payment of CHIP premiums. Total estimated cost for FY15 is \$700,000, all funds.

The following administrative expenses will also be incurred by KDHE-DHCF for newly implemented policies:

\$506,000 for changes to the Medicaid Management Information System (MMIS) in FY14 and \$184,000 to operate the MMIS in FY15; and  
\$1.2 million for Premium Billing services for each of FY14 and FY15

**(b) Costs to persons who will bear the costs and those who will be affected and are subject to the proposed rules and regulations or the enforcement:**

The newly implemented policies will not result in additional costs to KanCare beneficiaries.

**(c) Costs to other government agencies or units:**

The newly implemented policies will not result in costs to other government agencies or units

**7. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.**

Adoption of a subset of temporary regulations was considered but rejected. This Article is a set of inter-related rules and regulations necessary to administer the KanCare-CHIP program. Retaining some of the regulations in Article 30-14 would be confusing to the general public and other accessing the regulations.